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AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/982,559 12/02/97 CAHILL

J NSP-CASE-5

EXAMINER

IM52/0214

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KALAMAZOO MI 49008

GUARRIELLO, J

ART UNIT

PAPER NUMBER

1771

15

DATE MAILED:

02/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/982559

Applicant(s)

Cabill

Examiner

John Guarriello

Group Art Unit

1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/28/2000
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 2-26 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 2-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

15. The examiner acknowledges paper # 14 the amendment of 11/20/2000.
16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

17. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

18. Claims 2-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 23, it is not clear what is encompassed by the phrase "subjct...to government regulations." This is not a positive patentable

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limitation because "subject" does not mean **meets** or **exceeds**, these government regulations can change.

Claim Rejections - 35 USC § 102

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-5, 13, 14, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Minnick 5,098,778.

Minnick describes light weight high strength laminate with a low density reinforced thermoplastic core between two parallel sheets, (see abstract). Minnick describes that these can be used in laminates which are

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used in prefabricated building panels, (column 1, lines 15-20). Minnick describes these laminates can be used in building panels in the modular home segments of the home construction industry, (column 2, lines 54-56).

Minnick describes a thermoplastic material which upon consolidation forms a matrix to bond the fibers together in the composite layer, (column 4, lines 1-30). Minnick describes the essential limitations of the claimed invention.

Minnick describes density of 0.7 lb./cu.ft. (column 8, lines 62-63), which meets the claimed invention, see Example 4, (column 8, lines 19-24), and see Figure 3. Claims lack novelty.

Claim Rejections - 35 USC § 103

20. Claims 2-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman 4,425,396 in view of Minnick 5,098,778.

Rejection is maintained as in paper # 11 of 3/16/2000, paragraph # 21.

Applicant's arguments have been considered but they are not persuasive,

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Hartman describes a polyethylene weathering layer, (column 2, lines 40-60) which meets the limitation of the polymeric fabric layer. Minnick teaches the polyolefin and polyester which is the thermoplastic of the claimed invention, (column 4, lines 11-61). It is not necessary that the references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the references **as a whole** would have suggested to one of ordinary skill in the art, In re Sheckler, 168 USPQ 716 (CCPA 1971). Regarding the argument of improper hindsight, it must be recognized that any judgment on obviousness is in a sense a necessarily a reconstruction based on hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the invention was made, and does not include knowledge gleaned **only** from applicant's disclosure, such a reconstruction is proper, In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971).

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone

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number is (703) 308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris , can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



John J. Guarriello:gj

Patent Examiner

February 2, 2001



ELIZABETH M. COLE
PRIMARY EXAMINER